

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5082 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

P.K. DESAI

Versus

BANK OF BARODA & ORS.

Appearance:

MR PK DESAI is present in person

MR BJ SHAH & MR RM DESAI for Respondent No.1 & 2

None present for other Respondent.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/08/96

ORAL JUDGMENT

Heard the petitioner and the learned counsel for the respondents. The petitioner made a prayer in the original petition which reads as under:

- (A) Your Lordships will be pleased to issue a writ of or a writ in the nature of mandamus of any other appropriate writ, order or direction quashing and setting aside the Selection and

promotion of respondent No.4 to the post of M.M. Grade Scale III in Specialist Category as being bad in law and against the Rules and Regulations of the Bank and directing the respondent Bank to consider the case of the petitioner for posting vice the 4th respondent or in any other equivalent post at Baroda.

(B) Pending the hearing and disposal of this writ petition, Your Lordships will be pleased to order status quo to be maintained in respect of the transfer of the petitioner.

(C) Your Lordships will be pleased to grant ad interim relief in terms of prayer clause 17(B) above.

(D) Your Lordships will be pleased to pass such other and further orders as may be deemed just and proper in the facts and circumstances of the case.

By amending the petition, a further prayer has been made by the petitioner which reads as under:

(AA) Your Lordships will be pleased to issue a writ of or a writ in the nature of mandamus or any other appropriate writ, order or direction, quashing the impugned order dated 3.10.1983 (Annexure B) passed by the 3rd respondent posting the petitioner in Rajasthan Zone at Jaipur.

Under the order dated 3.10.83, the petitioner was ordered to be posted in Rajasthan Zone at Jaipur. It is not in dispute that this Court has made an order to maintain status-quo and as such, the order of transfer of the petitioner was not given effect. The order of transfer which been challenged in this Special Civil Application has not been given effect to for all these years and I do not consider it to be appropriate to now permit the respondents to give effect to this order. So far as the challenge made by the petitioner to the order dated 3.10.83 is concerned, it is hereby ordered that the respondents may not give effect to this order. However, the respondents shall be at liberty to make a fresh order of transfer of the petitioner, if it considers necessary for the administrative reasons and exigencies.

2. So far as the other prayer of the petitioner is concerned, it is suffice to say that the same does not survive as the respondent No.4 has already retired from the post of M.M. Grade Scale III in Specialist Category. The petitioner does not dispute that the post of

Specialist Category and the post which he was holding at the relevant time, are of same pay scale. Mere posting of respondent No.4 on the post of M.M. Grade Scale III in Specialist Category has not caused any monetary loss to the petitioner, but the petitioner states that the same is arbitrary. I do not consider it go on this question as the respondent No.4 has already retired and the petitioner has not suffered any monetary loss on account of posting of respondent No.4 on the post of Specialist Category.

3. In view of these facts, the prayer made by the petitioner in para 17.(A) of this Special Civil Application cannot be granted. So far as prayer No.17.(AA) is concerned, the petition stands disposed of subject to aforesaid observations and so far as prayer No.17.(A) is concerned, this Special Civil Application is dismissed. Rule stands disposed accordingly. No order as to costs.

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(sunil)